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ORIGINAL
FILED

JUL - 6 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

7

8   UNITED STATES DISTRICT COURT

9   NORTHERN DISTRICT OF CALIFORNIA

10   SAN FRANCISCO DIVISION

11

12 ARCSOFT INC.,   CASE NO. C07-03512 SC

13   Plaintiff,   **DECLARATION OF ANTHONY ADION
                                         IN SUPPORT OF ARCSOFT INC.'S
                                         APPLICATION FOR TEMPORARY
14   vs.   RESTRAINING ORDER**

15 PAUL FRIEDMAN,   Date: July 6, 2007
                                         Time: 9:30 a.m.
16   Defendant.   Dept: Courtroom 1, 17th Floor
                                         Bef: The Hon. Samuel Conti
17

18 I, ANTHONY ADION, declare as follows:

19   1.   I am a Corporate IT Manager in the Internet Technology Department at ArcSoft

20 Inc.'s ("ArcSoft" or the "Company") headquarters in Fremont, California. I have held this

21 position since July 2004. I have personal knowledge of the facts contained herein, and if called as

22 a witness, I could and would testify competently thereto.

23   2.   During the morning of June 26, 2007, I was in a meeting with a vendor. At

24 approximately 11:30 a.m., the meeting was interrupted by Matt Williams, ArcSoft's Customer

25 Service Manager, who informed me that Paul Friedman had been terminated and that Friedman

26 had taken his ArcSoft-issued laptop with him without permission when he left ArcSoft's offices.

27 Williams asked me to immediately disable Friedman's Virtual Private Network ("VPN") access

28 to ArcSoft's computer network, which would enable him to access ArcSoft's computer network

                                                              ADION DECLARATION

Case No. C07-03512

1   and email system remotely. I then excused myself from the meeting I was in and went to my

2   cubicle to disable Friedman's VPN access. By 11:45 a.m., I successfully disabled this access.

3   3.   The following day, June 27, 2007, I checked ArcSoft's VPN log to see if Friedman

4   had attempted to access ArcSoft's network. I noticed that someone using the user name

5   "pfriedman" (which had been assigned to Friedman by ArcSoft) attempted to log in to ArcSoft's

6   VPN server at 8:19 a.m. Attached hereto as Exhibit A is a true and correct copy of the VPN

7   access log report showing this activity.

8   4.   Due to the manner in which VPN access works (i.e. the user must activate the

9   VPN program stored on a computer that has been linked to ArcSoft's computer system), it is

10 likely that this attempt to access ArcSoft's computer network was done using the laptop computer

11 ArcSoft issued to Friedman, especially since the naming configuration which appears on the VPN

12 access log ("pfriedman-xp-nb") matches ArcSoft's standard naming convention for laptop

13 computers and the particular naming convention assigned to Friedman's ArcSoft-issued laptop.

14 Otherwise, it demonstrates that Friedman configured another unidentified personal computer to

15 have the same naming convention assigned to the laptop computer and to gain VPN access to

16 ArcSoft's network, and presumably used that non-company issued computer to view and

17 download documents and data off of the company's network.

18   5.   At approximately 3:00 p.m. that same day, Tonie Berryman, ArcSoft's Human

19 Resources Manager, asked me to join a meeting to discuss how to preserve Friedman's email

20 activity. On the way to that meeting, I told Berryman that, based on what I had seen in ArcSoft's

21 VPN log, I believed Friedman had attempted to log on to ArcSoft's network. Following that

22 meeting, I sent an email to Berryman, Victor Chen (ArcSoft's Corporate Counsel), and Stephen

23 Lien (Director of Finance and Operations) to notify them of Friedman's attempt to access our

24 network and to provide them with the information I obtained from the VPN log. Attached hereto

25 as Exhibit B is a true and correct copy of the email I sent to Chen, Berryman, and Lien.

26   6.   At approximately 3:45 p.m., Berryman and Chen asked me to accompany Chen as

27 he met with Friedman to obtain the laptop I was informed Friedman took from ArcSoft. At

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1 approximately 4:10 p.m., Chen and I arrived at the Marriot Hotel in Fremont to meet Friedman

2 and take possession of the laptop.

3   7.   When we arrived, Friedman was sitting on a couch in the lobby opposite the main

4 entrance. After Chen explained to Friedman that I was there as a witness, Friedman asked if he

5 would receive a receipt indicating that he had returned the laptop and his company-issued mobile

6 telephone. Chen responded by asking if Friedman was conditioning the return of the laptop on

7 being provided with a receipt. However, Friedman would not answer Chen's question directly,

8 and instead repeatedly stated that he would like to be provided with a receipt.

9   8.   Chen then showed Friedman a blank receipt, which, when completed, would verify

10 when Friedman had returned the laptop. After reading the receipt, Friedman opened the laptop in

11 front of us and turned it on, stating that he wanted to show us that the laptop was in working

12 condition. While the laptop was powering on, Friedman stated that he was concerned that it was

13 running out of battery power, so he plugged the laptop's power cord into an outlet behind the sofa

14 on which he was sitting. Although I could not clearly see the laptop screen based on our seating

15 arrangement, I could see a bar at the bottom of the screen. After several minutes passed, I could

16 see the laptop was not booting up properly. Chen then asked Friedman to turn off the laptop.

17   9.   Once the laptop was turned off, we turned our attention back to the receipt. Chen

18 began to complete the receipt, asking for the time, which Friedman stated was 4:21 or 4:22 p.m.

19 After completing the receipt, Chen asked Friedman if he would sign it. Friedman responded

20 stating that he would not sign any documents and that he was there to return the laptop, obtain a

21 receipt of the exchange, and "nothing else." Chen again asked Friedman if he would sign the

22 receipt, but Friedman again stated he would not do so. Chen then signed two copies of the

23 receipt, noting the date and time, and provided one of the copies to Friedman.

24   10.   In an effort to determine whether any information on the laptop Friedman was

25 returning had been compromised, Chen asked Friedman to complete a separate form. When Chen

26 asked Friedman to read the document, he repeated his prior statement that he was there to return

27 the laptop and mobile phone, get a receipt, and "nothing else." Chen asked Friedman to clarify

28 whether he was refusing to sign the document. Friedman again did not answer. Chen then asked

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1 whether he could assume from Friedman's silence that he was refusing to complete the document.

2 Friedman still did not answer, which I interpreted to mean that Friedman would not sign the

3 document.

4   11.   Since Friedman refused to complete the document or respond to Chen's questions,

5 Chen and I prepared to leave, and I took the laptop, mobile phone and accessories that Friedman

6 returned into my possession. We then noticed that the time Chen had written on the receipt

7 incorrectly stated that the laptop was returned at 3:22 p.m. instead of 4:22 pm. Accordingly,

8 Chen ran to Friedman's car to correct the time on both copies of the receipt.

9   12.   After correcting the receipt, Chen returned to where I was standing near the front

10 of the hotel and asked me if I saw a "disk error" message on the screen of the laptop when

11 Friedman attempted to start it. Although I was sitting at an angle and did not see a "disk error"

12 message, I told Chen that I could tell that the laptop had not booted up properly, and I expressed

13 my concern about the error message Chen indicated he had seen.

14   13.   Chen and I then took the laptop back to ArcSoft's offices, where I placed the

15 laptop in a secure cabinet which Chen locked.

16   14.   I have reviewed information from ArcSoft's network server, which identifies

17 emails which were also stored on the laptop as of the last time (prior to the date of his

18 employment termination) that email data from Friedman's laptop was automatically stored to the

19 network. Based on my review, it appears that Friedman stored on his ArcSoft-issued laptop

20 computer emails (and attachments to emails) that he sent and received in the normal course

21 through his corporate ArcSoft email account.

22   15.   Although reviewing information from the network server provides some

23 information as to which emails existed on Friedman's laptop computer as of the time he last

24 backed up information to the server, ArcSoft is unable to determine the full contents that existed

25 on the laptop before it was erased, and what was accessed and/or copied before it was erased.

26 Specifically, ArcSoft is unable to determine what information existed on areas of the computer

27 such as the local hard drive (an area of the computer where ArcSoft employees routinely store

28 company data), and has no way to know what files were accessed, copied, or forwarded to an

1   external storage drive while the laptop was in Friedman's possession. Thus, unless Friedman is

2   compelled to identify and return all ArcSoft data which existed on and was removed from the

3   laptop before it was erased, ArcSoft cannot ascertain the full extent of the damage caused by the

4   wiping of all contents from the laptop.

5   16.   I have reviewed the Declaration of Lee Curtis and am familiar with the results of

6   the forensic examination Aon Consulting performed after Friedman returned the laptop to

7   ArcSoft. Based on the results of Aon's investigation, I believe that the process of wiping the

8   contents of the laptop computer occurred after Friedman attempted to access ArcSoft's computer

9   networks via the VPN access program at 8:19 a.m., since the process of wiping the contents of the

10 laptop would have erased not only data, but the VPN access program that Friedman would need

11 to attempt to connect to ArcSoft's computer network.

12   I declare under penalty of perjury under the laws of the State of California that the

13 foregoing is true and correct. Executed on this 5th day of July, 2007, in Fremont, California.

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16   _____
                                                ANTHONY ADION

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ADION DECLARATION

Case No. C07-03512

EXHIBIT A

```
Event Type:       Warning
Event Source:     RemoteAccess
Event Category:   None
Event ID:         20189
Date:             6/27/2007
Time:             8:19:27 AM
User:             N/A
Computer:         RAS1
Description:
The user pfriedman connected from 71.141.237.212 but failed an authentication
attempt due

to the following reason: Authentication was not successful because an unknown user
name or

incorrect password was used.

For more information, see Help and Support Center at

http://go.microsoft.com/fwlink/events.asp.
```

10.10.20.23,pfriedman,06/27/2007,08:19:27,RAS,RAS1,44,3055,4,10.10.20.23,6,2,7,1,5,1
33,61,

5,64,1,65,1,31,71.141.237.212,66,71.141.237.212,4108,10.10.20.23,4147,311,4148,MSRAS
V5.20,

4160,MSRASV5.10,4159,MSRAS-O-PFRIEDMAN-XP-NB,4155,1,4154,Use Windows authentication
for

all
users,4129,ARCSOFT-FREMONT\pfriedman,4130,ARCSOFT-FREMONT\pfriedman,4127,4,25,311 1

10.10.20.23 05/08/2007 05:34:31 3010,4136,1,4142,0

10.10.20.23,pfriedman,06/27/2007,08:19:27,RAS,RAS1,25,311 1 10.10.20.23 05/08/2007

05:34:31

3010,4127,4,4130,ARCSOFT-FREMONT\pfriedman,4129,ARCSOFT-FREMONT\pfriedman,4154,Use
windows

authentication for all users,4155,1,4136,3,4142,16

[signature]

6/28/07

11:12 AM

EXHIBIT B

Anthony Adion

From: Anthony Adion

Sent: Wednesday, June 27, 2007 3:20 PM

To: Victor Chen; Tonie Berryman; Stephen Lien

Subject: VPN Attempt

FYI, please note that Paul attempted to access the VPN this morning, but was unsuccessful. This was his only attempt since his termination yesterday. The system event below was taken directly from our VPN server:

Event Type: Warning
Event Source: RemoteAccess
Event Category: None
Event ID: 20189
Date: 6/27/2007
Time: 8:19:27 AM
User: N/A
Computer: RAS1
Description:
The user pfriedman connected from 71.141.237.212 but failed an authentication attempt due to the following reason:
Authentication was not successful because an unknown user name or incorrect password was used.

For more information, see Help and Support Center at http://go.microsoft.com/fwlink/events.asp.
Regards,
Anthony